

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MM STEEL, L.P., §
§
Plaintiff, §
§
v. §
§
RELIANCE STEEL & ALUMINUM CO., §
CHapel STEEL CORP., AMERICAN § CIVIL ACTION NO. 4:12-CV-01227
ALLOY STEEL, INC., ARTHUR J. §
MOORE, JSW STEEL (USA) INC., NUCOR §
CORP. & SSAB ENTERPRISES, LLC §
D/B/A SSAB AMERICAS, §
§
Defendants. §

DEFENDANT NUCOR CORPORATION'S BRIEF REGARDING
REFERENCE TO LEGAL RESTRICTIONS ON MM STEEL'S SALES

Defendant Nucor Corporation (“Nucor”) respectfully requests permission to refer to certain aspects of Chapel’s state lawsuit against MM Steel (“MM”) in its opening statement and to present related evidence at trial. The restrictions on MM’s sales that resulted from the Chapel suit are essential to Nucor’s defense in this case.

Mike Hume and Matt Schultz left Chapel to form MM on September 1, 2011. MM's strategy focused on selling to customers they had serviced while at Chapel. Chapel, however, sued MM and its employees on September 15, obtaining a TRO that prohibited MM from selling to Chapel customers and shut down MM for a week. As a result, MM halted shipment on steel purchases it had already placed with JSW. After a week, the TRO was amended to permit sales to a specific subset of Chapel customers. On October 14, MM and Chapel entered into an agreed injunction preventing MM from selling to any Chapel customers beyond that subset until March

15, 2012. MM's Hume admitted in his deposition that this injunction continued to "slow [MM] down" for the next five months. Hume Dep. at 209.

MM claims in this case that it failed, not for lack of customers, but because a conspiracy prevented it from getting steel to sell. Compl., Dkt. 1 ¶ 9. The TRO and agreed injunction—which stopped MM from selling to many of its anticipated customers for most of its first seven months—is compelling evidence to the contrary. Presentation of this evidence is crucial to Nucor's defense that MM's failure had nothing to do with lack of supply from Nucor. "[R]elevant evidence which engenders no unfair prejudice and which relates to the core of the dispute should not be summarily excluded." *Ramos v. Liberty Mut. Ins. Co.*, 615 F.2d 334, 343 (5th Cir. 1980), *clarified on other grounds*, 620 F.2d 464 (5th Cir. 1980).

Even MM's *limine* motion did not contend that the outcome of the Chapel lawsuit is irrelevant. It sought only to exclude "[a]ny reference or argument ***concerning the perceived or actual merits*** of the settled claims alleged in Chapel's lawsuit . . . against MM Steel and its employees, including their alleged breach of restrictive agreements, theft of confidential information, or solicitation of suppliers, customers, or employees while employed by Chapel (e.g., DX 10-13, 42, 257, 589)." Dkt. 328 at Proposed Order, #1 (emphasis added). Nucor does not seek to discuss the Chapel suit's merits, but only its impact on MM's business going forward.¹

CONCLUSION

For the foregoing reasons, Nucor requests that the Court allow reference to the Chapel lawsuit and its resulting restrictions on MM's sales in the parties' opening statements and proof at trial.

¹ Nucor adopts by reference the additional arguments in co-defendants' briefs filed on the same topic.

February 17, 2014

Respectfully submitted,

/s/ Robert J. Katerberg

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on February 17, 2014, the foregoing document was transmitted to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing for this filing to all registered counsel of record.

/s/ S. Albert Wang
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